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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,315	09/23/2003	Takashi Yamamoto	03500.017622	9264
5514 7590 04/01/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
PARRA, OMAR S				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/667,315

**Applicant(s)**

YAMAMOTO ET AL.

**Examiner**

OMAR PARRA

**Art Unit**

2623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 16-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 10/15/2007.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The new computer-readable storage medium claim 26, as checked in the applicant's specifications by the examiner, is respectfully believed not to be part of the original disclosure.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-10 and 16-26 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **1-10 and 16-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (hereinafter 'Rodriguez', Pub. No. 2003/0002862) in view of Murase et al. (hereinafter 'Murase', Pub. No. 2004/0083301).

Regarding claims 1, 16 and 26, Rodriguez teaches a receiving apparatus (**DHCT 16, Fig. 4**) (with respective method and computer readable medium) comprising:

a reception unit (**442, Fig. 4**) constructed to receive content data and content list data via a network, the content list data including information for specifying receivable content data on the receiving apparatus (**[0048]; [0050]-[0051]; [0061]; [0063]; [0070]-[0071]**);

a content processing unit (**processor 444 in conjunction with 443, Fig. 4**) constructed to process the content data received by the reception unit to generate video and audio data (**[0062]-[0063]**);

a generating unit (**PRM or other application executed at processor 444**) constructed to generate a content list based on the content list data received by the reception unit (**[0051]; [0070]-[0071]; [0081]-[0083]**)

an output unit (**448, Fig. 4; [0062]; Figs. 18-27, which are outputs of both video and content list received**) constructed to output the content list generated by the generating unit, and the video and audio data to a display apparatus (**441; Fig. 4**);  
and

wherein generating unit generates the content list so as to display information as to the estimated time in relation to the information for specifying the content data (**Figs. 22-26, where estimated time is displayed to the user on section10 of each figure**).

Rodriguez teaches that the displayed content list information displayed on the content list (including the estimated download time) is sent from the server (where the estimation and monitoring of the network is performed by a section of the headend (323, Fig. 3; [0052]-[0053])). Rodriguez also teaches that the functionalities of the server and client are interchangeable ([0061]), which implies or suggests that the client is also able to perform the network monitoring functionality by itself. On the other hand, Rodriguez does not explicitly teach that the displayed estimated time is performed by the receiving device.

However, in an analogous art, Murase teaches a receiving apparatus (Client terminals 3, Fig. 1) with the capability of dynamically monitoring the network and estimate a time for obtaining pieces of content and for the time needed for processing and displaying the video. Connection time  $t(n)$ -sending and receiving time, and decompressing time  $c(n)$  is established or detected, to calculate the buffering time for the consecutive display of the content, [0062]-[0079], [0088], [0097]-[0099]. Video is displayed when the buffering time—which is the calculated with the estimation of the times explained before, expires.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Rodriguez's invention with the receiving device feature

of monitoring and estimating the time for presentation as taught by Murase for the benefit of having a dynamic estimation of the time a user has to wait until the video is ready for display instead of an estimation performed before the moment of ordering the content without considering current network characteristics or for the benefit of relieving the server of estimating a download time for all the clients.

Regarding claims 2 and 17, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the control unit detects at least one of a first time required for a procedure for connecting to a distribution source of the content data and a second time required for receiving a predetermined amount of the content data (**Murase: Connection time  $t(n)$ -sending and receiving time, and decompressing time  $c(n)$  is established or detected, to calculate the buffering time for the consecutive display of the content, [0062]-[0079], [0088], [0097]-[0099]. Video is displayed when the buffering time –which is the calculated with the estimation of the times explained before, expires**), and

the generating unit generates information as to at least one of the first time and the second time or a total time of the first time and the second time in relation to the information for specifying the content data (**Rodriguez: Figs. 22-26, where estimated time is displayed to the user on section10 of each figure. Different download times are/were estimated and displayed to the user: 2.5 min when the download is marked as immediate, Fig. 25; 62.5 min when marked as 'complete in 1 hour'; and inherently, 122.5 min when marked 'complete in 2 hours', Fig. 22).**

Regarding claims 3 and 18, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the control unit compares the detected times with a predetermined threshold value (**Murase: For each stream, the connection time and the processing time have to be less than the previous displaying time -[0066]; [0090], and for that reason, the buffering time is used as a threshold to check if the reception and processing has been performed, [0097]-[0099]. If it was, normal display of a/v content follows; while an error is detected if the opposite happens, [0118]), and**

the generating unit generates the content list controls the output means so as to display a result of the comparison (**Rodriguez: Different download times are estimated/displayed to the user: 2.5 min when the download is marked as immediate, Fig. 25; 62.5 min when marked as 'complete in 1 hour'; and inherently, 122.5 min when marked 'complete in 2 hours', Fig. 22).**

Regarding claims 4 and 19, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the control unit compares the detected times with plural threshold values, which are different from each other (**Murase: Given that the buffering time is calculated iteratively for every stream, their values change due to different factors, and therefore different values of buffering times are used to compare, [0102]. Rodriguez: Different download times are/were estimated and displayed to the user: 2.5 min when the download is**

**marked as immediate, Fig. 25; 62.5 min when marked as 'complete in 1 hour'; and inherently, 122.5 min when marked 'complete in 2 hours', Fig. 22).**

Regarding claims 5 and 20, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the control unit controls the reception unit so as to execute processing for connection to a distribution destination of the content data and detects the first time and the second time based upon the processing for connection **(Given that a buffering time is iteratively calculated for consecutive streams, connection and processing times are estimated sequentially, [0062]-[0079], [0088], [0097]-[0099] [0102])..**

Regarding claims 6 and 21, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the control unit judges that reception is impossible in the case in which a time required for a procedure for connection to a distribution destination of the content data has exceeded a predetermined time **(Murase: It is inherent, that if no data is decompressed or received, no video will be displayed. Therefore, if the buffering time is exceeded and if the previous displayed time is over, no video will be shown as an indication of the error, [0118]), and**

the generating unit generates the content list including information indicating that the reception is impossible **(Rodriguez: Fig. 31).**



Regarding claims 7 and 22, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the control unit judges that reception is impossible in the case in which a time required for a procedure for receiving a predetermined amount of the content data has exceeded a predetermined time (**Murase: It is inherent, that if no data is decompressed or received, no video will be displayed. Therefore, if the buffering time is exceeded and if the previous displayed time is over, no video will be shown as an indication of the error, [0118]), and**

the generating unit generates the content list including information indicating that the reception is impossible (**Rodriguez: Fig. 31).**

Regarding claims 8 and 23, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the reception unit is capable of receiving N pieces of the content data in parallel with each other, and the control unit detects the time for the N pieces of the content data in parallel with each other, which are received by the reception unit means in parallel with each other among the plural content data (**Murase: [0041]. Rodriguez: 210, 220, 230 and 240, Fig. 2; [0044]-[0048]).**

Regarding claims 9 and 24, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the generating unit generates the content list arranged so that an order of display of content names on the

content list are displayed based on a length of the detected time (**Rodriguez: 2246, Fig. 22**).

Regarding claims 10 and 25, the combined teachings of Rodriguez and Murase teach a receiving apparatus (with respective method) wherein the reception unit has a storage unit which is capable of storing a predetermined amount of the N pieces of the content data, respectively, and the control unit controls the reception unit so as to store the predetermined N pieces of the content data among the plural content data in the storage unit (**413, Fig. 4; [0070]; [0077]-[0078] ; [0083]**).

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on Under Academy Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OP

/Christopher Grant/  
Supervisory Patent Examiner, Art Unit 2623